

1 TRACY L. WILKISON
Acting United States Attorney
2 BRANDON D. FOX
Assistant United States Attorney
3 Chief, Criminal Division
ALEXANDER F. PORTER (Cal. Bar No. 258597)
4 VALERIE L. MAKAREWICZ (Cal. Bar No. 229637)
Assistant United States Attorneys
5 Major Frauds Section
1100 United States Courthouse
6 312 North Spring Street
Los Angeles, California 90012
7 Telephone: (213) 894-0813/0756
Facsimile: (213) 894-6269
8 E-mail: alexander.porter2@usdoj.gov
valerie.makarewicz@usdoj.gov
9

Attorneys for Plaintiff
10 UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT

12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 LUCINE ILANGEZYAN,

17 Defendant.
18
19

No. CR 18-00288 (A) -SVW

GOVERNMENT'S RESPONSE TO
DEFENDANT'S SENTENCING MEMORANDUM

Hearing Date: April 12, 2021

Hearing Time: 1:30 p.m.

Location: Courtroom of the
Hon. Stephen V.
Wilson

20 Plaintiff United States of America, by and through its counsel
21 of record, the Acting United States Attorney for the Central District
22 of California and Assistant United States Attorneys Alexander F.
23 Porter and Valerie L. Makarewicz, hereby files this Response to
24 Defendant's Sentencing Memorandum.
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1 Dated: April 7, 2021

Respectfully submitted,

2 TRACY L. WILKISON
Acting United States Attorney

3 BRANDON D. FOX
4 Assistant United States Attorney
Chief, Criminal Division

5
6 /s/

7 ALEXANDER F. PORTER
VALERIE L. MAKAREWICZ
8 Assistant United States Attorneys

9 Attorneys for Plaintiff
UNITED STATES OF AMERICA

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 The government submits this memorandum to respond to certain
3 issues raised in defendant's sentencing memorandum, which was filed
4 on April 5, 2021.

5 **I. DEFENDANT'S SENTENCING MEMORANDUM MINIMIZES DEFENDANT'S KNOWING**
6 **AND WILLFUL PARTICIPATION IN THE CONSPIRACY**

7 Defendant pleaded guilty in this case to conspiracy to commit
8 health care fraud. Dkt. 206. In her plea agreement, defendant
9 admitted to a robust factual basis, which detailed how defendant knew
10 she was engaged in a fraud scheme at the Clinics, and was submitting
11 a massive volume of claims to insurance companies for medical
12 services defendant knew were not medically necessary, or were not
13 actually provided to patients. PA ¶ 11.

14 Yet, despite admitting this, defendant's sentencing memorandum
15 contains numerous statements that minimize defendant's knowledge of
16 the fraud at the Clinics. Defendant's sentencing memorandum says
17 defendant continued to participate in the offense even after she
18 became "suspicious" that what was going on at the Clinics was "at
19 best inappropriate and at worst illegal." Def. Mem., at 9:22-24. In
20 addition, quoting from her retained psychologist, defendant's
21 sentencing memorandum claims that defendant was an unwitting
22 insurance biller who "simply received the superbills from the
23 physicians or assistants, that contained the procedure codes and
24 diagnosis" and that defendant "had no means of knowing whether a
25 particular patient had, in fact, ever been seen in the office, if
26 they had ever been treated for anything, whether or not the diagnosis
27 had any clinical basis and was, therefore, justified, and what
28

1 specific procedure was, indeed, actually performed.” Id. at 10:19-
2 11:2.

3 These statements contradict the facts in the factual basis of
4 defendant’s plea agreement, which defendant admitted to under oath
5 during her change of plea hearing. Defendant admitted that she
6 “submitted false and fraudulent claims to the Health Insurance
7 Companies for medical procedures that defendant knew were either not
8 actually provided to the patients, or were not medically necessary.”
9 PA, at 9:22-25 (emphasis added). Defendant was not merely
10 “suspicious” that there was fraud occurring at the Clinics -
11 defendant knew that she was submitting fraudulent claims to the
12 insurance companies for services that were not provided to patients
13 and/or were not medically necessary. Id. Defendant further admitted
14 that she acted willfully and with intent to defraud the insurance
15 companies. Id. at 10:12-13. Indeed, defendant submitted more than
16 \$20 million in fraudulent claims to insurance companies over a period
17 of more than five years. Id. at 10:6-11.

18 Defendant’s attempt to back away from the factual basis of her
19 plea agreement indicates that defendant still does not recognize the
20 seriousness of her criminal conduct. Accordingly, a 30-month prison
21 term is appropriate for defendant to punish her for her serious
22 criminal conduct and to promote respect for the law.

23 **II. DEFENDANT’S FAMILY CIRCUMSTANCES DO NOT MERIT A REDUCED SENTENCE**

24 Defendant argues that she should be sentenced to a term of
25 imprisonment because she has four children, ages 7 to 12. Def. Mem.,
26 at 1. However, as the government pointed out in its sentencing
27 memorandum, defendant has family in Los Angeles who can take care of
28 her children while defendant serves out her prison term. Indeed,

1 defendant's husband - and the father of all four children - is
2 available to care for the children while defendant is in prison.
3 Defendant suggests that her husband is not able to care for the
4 children, but although defendant's husband may have some difficulty
5 standing for long periods of time, the PSR indicates that he "works
6 as a caregiver and handyman." PSR ¶ 63.

7 Furthermore, even if defendant's husband is not able to care for
8 his own children for some reason, defendant appears to have
9 significant extended family support. Defendant's sister, Agavni
10 Ilangezyan, is a bank manager who lives with defendant's mother in
11 Glendale. PSR ¶ 59. Defendant has also submitted numerous letters
12 of support from other family members. Def. Mem., Ex. C. Thus, this
13 is clearly not a case where there are no available caretakers for
14 defendant's children - there are several family members, including
15 the children's own father, who could care for the children while
16 defendant serves her 30-month prison term.

17 **III. DEFENDANT'S GUIDELINES SHOULD BE CALCULATED USING THE INTENDED**
18 **LOSS AMOUNT OF \$20 MILLION**

19 Finally, the Court should reject defendant's argument that the
20 Court should use the actual loss amount of \$8 million, instead of the
21 intended loss of \$20 million. Def. Mem., at 3.

22 Ninth Circuit case law is clear that in a health care fraud case
23 like this one, the total amount of fraudulent claims billed to the
24 insurance companies is the presumed amount of loss under the
25 Guidelines. United States v. Popov, 742 F.3d 911, 915 (9th Cir.
26 2014). In this case, defendant admitted in the plea agreement that
27 the billed amount is \$20,932,411. PA, at 10:8. As a result, the PSR
28 indicates that the appropriate loss amount for defendant is +20. PSR

1 ¶ 38. Defendant's arguments for a loss enhancement based on the
2 lower actual loss amount of \$8 million is not supported by law or
3 fact, and the argument should be rejected.

4 **IV. CONCLUSION**

5 The government respectfully submits that a sentence of 30 months
6 is appropriate for defendant in light of the massive scale of the
7 fraud in this case, which involved \$20 million in false claims being
8 submitted to insurance companies and the insurance companies paying
9 approximately \$8 million on those false claims. Defendant was a
10 central player in this significant health care fraud conspiracy - she
11 personally submitted a massive volume of the false claims to the
12 insurance companies. Defendant knew that she was submitting
13 fraudulent claims to the insurance companies and she did so for more
14 than five years. Accordingly, defendant should be sentenced to 30
15 months in prison in order to appropriately punish defendant for her
16 conduct and to provide appropriate deterrence to others. The Court
17 should also impose a three-year period of supervised release; order
18 restitution in the total amount of \$7,991,406, as described in the
19 government's sentencing memorandum; and order defendant to pay a
20 mandatory special assessment of \$100.